Civil Writ Petition No.2290/92
S.K.Dheer Vs. State of Rajasthan & Ors

Date of Order ::: 08/12/05

Hon'ble Mr. Justice Ajay Rastogi

Mr. G.P.Kaushik) for petitioner
Mr. J.K.Agrawal, Addl.Govt.Adv. For the State

Instant writ petition has been filed by petitioner claiming interest for the delay in payment after passing order dt.20/07/85 (Ann.R/1) by the competent authority regularizing period of his suspension in exercise of powers U/r 54 of Rajasthan Service Rules, pursuant to which he was allowed full salary & other admissible allowances thereon, minus subsistence allowance already drawn by him during period of his suspension; and his suspension period was treated as spent on duty for all purposes viz. Grade increments, leave, pension etc.

Facts, in brief, required for adjudication of controversy raised, are that petitioner was placed under suspension on 25/08/70 and pending inquiry, order of suspension was revoked by authority on 22/12/72 and he was ordered to be reinstated. In a regular charge sheet which was served upon him dt. 06/04/1971 – reply to which was submitted by him on 18/05/71. Ultimately he was held guilty and punished with penalty of stoppage of two annual grade increments with cumulative effect vide order dt.04/06/85 and pursuant whereto, vide order Dt.20/07/85 (Ann.R.1), Chief Engineer (Irrigation) regularised his suspension period U/r 54 of RSR as referred to (supra). Against order of

punishment (supra), petitioner preferred departmental appeal and the appellate authority while holding him guilty, converted penalty of withholding of increments from "with" to "without" cumulative effect vide order dt. 08/01/87.

However, payment towards salary in arrears accrued as a consequence of regularisation of suspension period so also conversion of penalty, which the petitioner was entitled to in terms of order dt.20/07/85 (Ann.R.1) in fact for all practical purposes, viz. Increments, leave, pension etc., was paid to a sum of Rs.38,400/- on 24/09/91 albeit it became due long back atleast on 20/07/85. Hence this petition.

Counsel for petitioner contends that once suspension order was revoked on 22/12/72 for reinstatement and inquiry culminated into infliction of penalty vide order dt.04/06/85 and further order was passed on 20/07/85 regularizing suspension period, referred to supra, U/r 54 of RSR, there was no justification for respondents to yet withhold his payment of arrears to which he became entitled, as a consequence whereof, he faced mental agony pendente inquiry for 15 years and that apart, even after passing of order of regularisation of suspension period, he became entitled for his rightful claim and further entitling interest over due payment as a result of delay in making payment in arrears.

Respondents have filed reply to writ petition inter-alia averring that the delay has taken place for

the reason that during period of suspension, petitioner remained posted at various 16 places where his service book was sent for due process, which took time to seek verification of his service period and thereafter payment in arrears was made on 20/09/91.

I have considered rival contentions of both the parties and perused material on record. It is not in dispute that salary and subsistence allowance to which petitioner was entitled in terms of order dt.20/07/85 has been made on 24/09/91. But only question for consideration is as to whether there is any valid justification for the delay in making payment of arrears having fallen due in terms of order dt.20/07/85. In my considered opinion, once order was passed by competent authority on 20/07/85, one can expect to have reasonable time to consume in making payment, but six years have rolled by causing delay in making payment in arrears of rightful claim and such an inordinate & unexplained delay cannot be considered to be justified in any case and even in cases where delay has been made in making payment of retirement benefits to the pensioners, 12% interest has been decided by State Government, itself, to be awarded vide notification dt.12/06/01, in my opinion, petitioner is entitled to atleast interest @9% per annum over the payment which became due to him after two months from the order dt.20/07/85 till its actual payment.

It was not the case of respondent that petitioner was at fault either for submitting papers or in any other manner at any stage, as such delay is only

attributable to functionary of the State, to which petitioner has no control and merely because file was sent to 16 places, such cannot be just explanation.

Consequently, this writ petition is allowed. Respondents are directed to make payment of interest @9% per annum on the arrears of his rightful claim accrued in terms of order dt.20/07/85 from 20/09/85 till actual arrears of Rs.38,400/ paid to petitioner. All exercise to comply with aforesaid direction be made, supra, within two months. No costs.

(Ajay Rastogi), J.

K.Khatri/2290CWP1992.

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